

S/L 116
23.09.2022
Court. No. 19
sn

W.P.A. 21311 of 2022

Sudip Mitra
VS
The State of West Bengal & Ors.

Mr. Bhagbat Chowdhury
Mr. Prasad Bhattacharyya

...for the Petitioner.

Despite service, one appears on behalf of the respondents.

Affidavit-of-service filed in Court today, be kept with the record.

As this Court is not inclined to pass any mandatory direction as prayed for by the writ petitioner, but is relegating the entire issue to be determined by the appropriate authority, the writ petition is taken up and disposed of in the absence of the non-appearing respondents.

The petitioner alleges that the respondent nos. 6 to 9 have raised unauthorized construction on LR Dag no. 3665 of mouza Amta, without any permission from the panchayat authorities. The petitioner submits that no plan had been approved by the authorities and the land is classified as 'shali'.

The petitioner approached the authorities with the aforementioned allegation, by filing a representation dated August 29, 2022. It is submitted that the said representation has not yet been considered.

Under such circumstances, this writ petition is disposed of with a direction upon the Amta Gram Panchayat to dispose of the representation of the petitioner dated August 29, 2022, in accordance with law.

If it is found that the permission granting authority in this case, would be the zilla parishad, then the matter shall be referred by the gram panchayat to the zilla parishad.

The permission granting authority or the competent authority, shall dispose of the representation of the petitioner, in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.6 and 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.6 to 9 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and had been continuing, the authorities may take such interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

- d) Such report shall be handed over to the parties. The question of right, title and possession shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.6 to 9. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in accordance with law.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from date of receipt of the complaint of the petitioner.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)